

L. Glass



Comptroller General  
of the United States

Washington, D.C. 20548

## Decision

**Matter of:** Contraves USA, Inc.

**File:** B-241500

**Date:** January 7, 1991

Paul Shnitzer, Esq., and Robert P. Davis, Esq., Crowell & Moring, for the protester.  
Paul J. Roberts for Carco Electronics, an interested party.  
Gregory H. Petkoff, Esq., and Virginia W. Haddad, Esq., Department of the Air Force, for the agency.  
Linda C. Glass, Esq., Andrew T. Pogany, Esq., and Michael R. Golden, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

### DIGEST

1. Consideration of risk involved in an offeror's technical approach is inherent in the evaluation of technical proposals. Agency reasonably considered unexplained technical changes in protester's best and final offer as an indication that protester's proposal represented a significant technical risk of not being able to meet the minimum performance requirements of the solicitation.
2. Contracting agency has no obligation to reopen negotiations so that an offeror may remedy defects introduced into a previously acceptable proposal by a best and final offer since the offeror assumes the risk that changes in its final offer might raise questions about its ability to meet the requirements of the solicitation.

### DECISION

Contraves USA, Inc. (CUSA) protests the award of a fixed-price contract to Carco Electronics, under request for proposals (RFP) No. F08635-90-R-0492, issued by the Munitions Systems Division, Eglin Air Force Base, for the design, fabrication, delivery, and installation of a Flight Motion

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Simulator (FMS) system.<sup>1/</sup> The protester principally contends that it should have received the award as the lowest-priced offeror.

We deny the protest.

The RFP was issued on June 27, 1990, and provided that award would be made to the firm submitting the proposal deemed most advantageous to the government, cost or price and technical factors considered. The areas of evaluation listed in descending order of importance were technical and management/cost. The technical area involved the evaluation of the following equally weighted criteria: (1) understanding the problem; (2) soundness of approach; and (3) completeness and compliance with requirements. The RFP provided for the FMS to be mounted on a 10 foot by 14 foot concrete pad located in a room in the Guided Weapons Evaluation Facility and that the FMS must be designed so that it can be moved into and installed in the room without any building modifications or alterations. Finally, the RFP stated that price proposals would not be rated or scored, but would be reviewed for realism, completeness, and reasonableness.

Three proposals were received by the closing date of July 27, 1990. One of the three offerors was determined to be technically unacceptable and outside the competitive range. The remaining two offerors, CUSA and Carco, were determined to be within the competitive range, and discussions were conducted with both offerors.

The primary issue of discussions with CUSA was its proposed hydraulic power supply pump size. CUSA initially proposed a 60 horsepower pump, but during discussions the agency advised CUSA that the 60 horsepower pump was insufficient to power the FMS and meet the performance requirements for motion. After discussions, CUSA responded with a proposed 750 horsepower pump. The agency questioned whether such a large pump would fit into the space provided for in the pump room. After further discussions, CUSA stated that it could meet the requirements with a 450 horsepower pump that could fit into the pump room. CUSA stated that it had reduced table inertia by redesigning the roll drive to provide for the smaller pump and provided the agency technical data on the inertia change. After these discussions, CUSA was found technically acceptable

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<sup>1/</sup> The FMS system simulates the flight motion of guided weapons. The FMS system includes a motion table, the hydraulic subsystems (*i.e.*, pumps, lines, and accumulators), the electronic control systems, computer interface and all required installation hardware, mounts and supports.

by the agency with a risk in the moderate to high range and was retained in the competitive range.

On September 6, 1990, best and final offers (BAFOs) were requested with a closing date of September 12. CUSA, in its BAFO, reduced the horsepower from 450 to 375 and added a chiller to its proposed design. CUSA provided no technical data to account for the smaller pump, and provided no data about the chiller, its size, utilities required by the chiller, or where it would fit. The agency found that the unjustified and unexplained reduction in horsepower represented a significant technical risk to the program and represented a lower-rated technical approach than that offered by CUSA prior to its BAFO submission. The agency specifically found that CUSA's system with a 375 horsepower pump had a significant technical risk of not being able to meet the minimum performance requirements. The agency further found that the addition of the chiller into the pump room increased the risk of the equipment not fitting in the pump room.<sup>2/</sup> After evaluation of CUSA's BAFO, the agency determined that CUSA's proposed FMS system had a significantly high technical risk of not being able to meet the minimum specified performance requirements and of the pump and chiller combination not fitting into the space available in the pump room.

On the other hand, Carco proposed a system design that was initially rated as having a low technical risk. Since Carco made no technical changes in its BAFO, its rating was unchanged. The Carco design was determined to have a significantly higher probability of success in meeting the minimum performance requirements of the solicitation and in fitting the equipment into the pump room.

The agency found that the unexplained and unjustified change in the system proposed by CUSA demonstrated a poor understanding of the requirements and created a significantly high technical risk to the program. The higher technical risk of the proposed CUSA effort was determined to outweigh any advantages of its lower cost. Consequently, the agency concluded that it was in the best interest of the government to award to Carco which presented the lowest technical risk. Carco was awarded a contract on September 27. This protest was filed on October 4.

CUSA essentially objects to the award to Carco at a higher price. CUSA argues that its reduction in power supply was

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<sup>2/</sup> This was especially of concern to the agency since throughout technical discussions, CUSA had indicated difficulty meeting the performance requirements with a pump that would fit in the pump room as required by the solicitation.

accomplished by following the formulas it disclosed to the agency during discussions concerning the power supply. CUSA maintains that it intended to coordinate the placement of the chiller outside the building with Eglin's Civil Engineering Department. CUSA further maintains that it submitted the low-priced technically superior proposal.

Consideration of the risk involved in an offeror's approach is inherent in the evaluation of technical proposals. See Honeywell, Inc., B-238184, Apr. 30, 1990, 90-1 CPD ¶ 435. Regarding the agency's evaluation of CUSA's proposal as being of high risk, we will examine the evaluation to insure that it was reasonable and consistent with the evaluation criteria.

CUSA states that it was able to reduce the horsepower by reducing the inertia against which the power supply must work. According to CUSA, this reduction in inertia allowed the power supply to comply with the requirements while at the same time reducing the size of the power supply to the point where it would fit in the pump room. CUSA maintains that this reduction in power supply and inertia was accomplished in accordance with formulas that were supplied to the government during discussion when it reduced the power supply from 750 horsepower to 450 horsepower. CUSA contends these formulas involve straightforward calculations in which the power supply is related to axes inertia, system pressure, and the maximum rate of acceleration. On the basis of these formulas, CUSA argues that the agency should have recognized that the entire reduction in the power supply was brought about by a 16 percent reduction in axes inertia.

Contrary to CUSA's argument that its previously submitted formulas could be used to substantiate the reduction made in its BAFO, we think the agency reasonably concluded that CUSA's unexplained reduction in power supply and addition of a chiller presented a significant performance risk. CUSA states in its comments to the agency report submitted in response to the protest that the reduction was specifically accomplished by moving components closer to the axis rotation and by some "minor" reduction in wall thickness. However, none of this was explained by CUSA in its BAFO. CUSA failed to explain which components would be moved, where or how. With respect to the chiller, CUSA's initial proposal did not provide for a chiller, and a chiller was not mentioned during discussions. Although CUSA now maintains that it intended to place the chiller outside the pump room, CUSA was silent in its BAFO concerning the placement of the chiller.

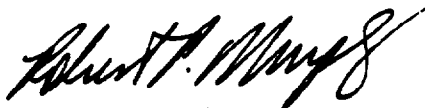
Here, the record indicates that CUSA during discussions with the agency was having difficulty with its proposed design meeting the solicitation requirements with an appropriate power supply that could fit into the pump room. During


discussions, CUSA finally convinced the agency that a 450 horsepower pump would be powerful enough to meet the solicitation requirement and small enough to fit into the pump room. The record shows that the agency was not completely convinced of the adequacy of CUSA's system, hence the moderate to high risk rating. Thus, the BAFO power supply reduction without supporting evidence, coupled with the addition of a new component, was reasonably considered by the agency, in our view, to represent a high technical risk to the success of the program. We therefore conclude that the agency reasonably considered CUSA's proposal to be of high risk because of the firm's unexplained reduction in its power supply.

Further, an agency is not obligated to reopen negotiations so that an offeror may remedy defects introduced into a previously acceptable offer by a BAFO. See RCA Serv. Co., B-219643, Nov. 18, 1985, 85-2 CPD ¶ 563. Thus, CUSA assumed the risk that changes in its final offer might raise questions about its ability to perform and thus result in a determination that its proposal presented a high performance risk.

In our opinion, the technical evaluation here was reasonable. CUSA's proposal simply was not evaluated to be as good or as low risk as Carco's proposal. The award to Carco was consistent with the RFP scheme, which specifically stated that technical was more important than cost.

The protest is denied.



 James F. Hinchman  
General Counsel